

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

ASHLEY MATTIO and,)
JESSE MATTIO,)
Wife and Husband)
Plaintiffs,)
vs.) Case No. 2:11-CV-232
JOHN WALLACE,) **HEARING REQUESTED**
Defendant.)

PLAINTIFFS' MOTION IN LIMINE

The Plaintiffs file this Motion in Limine and respectfully request an Order based on the following:

1. The Plaintiffs have sought an independent medical examination and expert testimony from Dr. William Kennedy in relation to this case.
2. As a result of a prior, unrelated case, Dr. Kennedy's membership in the American Association of Orthopaedic Surgeons / American Academy of Orthopaedic Surgeons ("AAOS") is temporarily suspended.
3. The facts associated with Dr. Kennedy's temporary suspension are not similar to facts at issue in the present case.
4. The AAOS reviewing committee's decision to temporarily suspend Dr. Kennedy's membership is unreliable in this, unrelated case.

5. It is expected, however, that defense counsel will make reference to and question Dr. Kennedy about the opinion of and suspension from the AAOS throughout the trial of this case.

6. Reference to Dr. Kennedy's temporary suspension would be unfairly prejudicial to the Plaintiffs.

7. Reference to Dr. Kennedy's temporary suspension would confuse the issues at trial.

8. Reference to Dr. Kennedy's temporary suspension would waste the court's time.

9. So, the probative value of any such questioning or reference would be substantially outweighed by the risks of unfair prejudice, confusion of the issues, and waste of time and should be excluded under Federal Rules of Evidence, Rule 403.

WHEREFORE, the Plaintiffs respectfully request that reference to the opinion of the AAOS in any manner whatsoever be prohibited during all stages of this litigation and the trial of this case. Further, the Plaintiffs request a hearing on this motion.

Respectfully submitted this 12th day of March, 2012.

/s Larry V. Roberts

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Plaintiff's Motion in Limine was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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This 12th day of March, 2012.

/s Larry V. Roberts
Larry V. Roberts